

STATEMENT OF REP. JOHN CONYERS, JR.
Courts, the Internet, and Intellectual Property Subcommittee
Hearing on "Committee Print Regarding Patent Quality Improvement"
Wednesday, April 20, 2005

Patent reform is likely to be a sleeper issue of this Congress. Long considered an arcane area of the law, the patent system is the driving force of our economy. Government-granted monopolies, in the form of patents, govern where businesses will direct their energy, where investment companies will dedicate their billion dollar investment funds, and what will be 'the next big thing' after the Internet.

Unfortunately, there is a trend of the Patent and Trademark Office, because of unclear laws and poor resources, issuing patents on technologies that either are not new or are obvious to anyone with any background in the field. I believe the biggest issue before us is to prevent this from happening. These patents lead to protracted and expensive litigation, send businesses into chaos, and discourage actual innovation.

As I have said before, I commend the idea of making it easier to challenge bad patents once they have been issued; no one disagrees that the current re-exam system is not adequate. But a new post-grant opposition system is merely a Band-Aid approach.

We must ensure that these bad or overbroad patents do not issue in the first place. To accomplish this, we first need to get to the patent examiners' desks every piece of relevant prior art; and I emphasize the word 'relevant.' While the PTO needs to know the current state of technology, we should not let third parties flood examiners with irrelevant information and bog down the PTO. Second, the PTO must strictly adhere to the law against issuing patents on inventions that are obvious.

Another major push is for harmonization of our laws with those of the other major patent systems, Europe and Japan. This largely involves changing our system so that the first-inventor-to-file, instead of the first-to-

invent, receives a patent. Although this change will be difficult and complicated, it will streamline the patent review process, significantly reduce costs, and will be well worth the considerable effort it will take to get there.

Finally, while every idea should be on the table, I hope we can agree that we should not impose disincentives to innovation, unreasonably limit the enforcement rights of valid patent owners, or pit small inventors against large corporations.